

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF REVENUE

In the Matter of the Revocation
of the Teacher's License of
Jean E. Busse.

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

The above-entitled matter came on for hearing before Kathleen D. Sheehy, Administrative Law Judge, on May 15, 2003, at the Office of Administrative Hearings in Minneapolis. The record closed that day.

Wayne L. Sather, Esq., Minnesota Department of Revenue, Mail Station 2220, 600 North Robert Street, St. Paul, MN 55146-2220, appeared for the Department of Revenue (Department).

Jean E. Busse, 4324 West Seventh Street, Duluth, MN 55807-1433, did not appear. By prior agreement, the Department did not expect her to appear for the hearing.

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Revenue will make the final decision after a review of the record. The Commissioner may adopt, reject, or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner of Revenue shall not be made until this report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this report to file exceptions and present argument to the Commissioner of Revenue. Parties should contact Wayne L. Sather, Attorney, Legal Services Section, Mail Station 2220, St. Paul, MN 55146-2220 or 651/296-8228. The record closes upon the filing of exceptions to the report, or upon the expiration of the deadline for doing so. If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

STATEMENT OF ISSUE

Should Ms. Busse's teacher's license be revoked for failure to file tax returns?

The Administrative Law Judge concludes Ms. Busse's license should be revoked.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On November 19, 2002, the Department sent a Notice of Intent to Revoke License to Jean E. Busse indicating that she had failed to file income tax returns for 1996 and 1997.^[1] The Notice also indicated that the Department intended to notify the Minnesota Board of Teaching for the purpose of revoking her teaching license if she failed to file the missing returns and pay the resulting tax, penalty, and interest by December 19, 2002. The Notice informed Ms. Busse that she could request a hearing before the Office of Administrative Hearings by stating, in writing, the basis for her protest and submitting it by December 19, 2002.

2. On December 17, 2002 Ms. Busse wrote to the Department requesting a hearing, acknowledging her failure to file returns for 1996 and 1996, and stating her intention to pay all penalties and interest on any amounts owed.^[2]

3. On April 10, 2003, the Department issued a Notice of and Order for Hearing, which was served upon Ms. Busse by U.S. mail.

4. Before the hearing, Ms. Busse had contacted the Department and stated that she did not intend to appear or contest this matter. The Department agreed to recommend that the Administrative Law Judge not file a report for 30 days from the date of hearing. If Ms. Busse were to file the missing returns in that time, the Department would notify the Administrative Law Judge that the matter had been resolved and no report would be required.

5. The Department has not notified the ALJ that the returns have been filed.

6. As of the date of the hearing, Ms. Busse had failed to file tax returns for 1996 and 1997.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Department and the Administrative Law Judge have authority to consider the issues set out in the Notice of and Order for Hearing and to take the action proposed under Minn. Stat. §§ 14.50 and 270.72, subd. 1.

2. The Department gave proper notice of the hearing in this matter to the Respondent and has complied with all relevant substantive and procedural requirements of law and rule.

3. Respondent failed to appear at the hearing and has not contested that she has failed to file tax returns for 1996 and 1997. Therefore, the Respondent is in default under Minn. R. 1400.6000. The allegations in the Notice of and Order for Hearing are taken as true.

4. Minn. Stat. § 270.72, subd. 1, provides as follows:

The state or a political subdivision of a state may not issue, transfer, or renew, and must revoke a license for the conduct of a profession, occupation, trade or business if the commissioner notifies the licensing authority that the applicant owes the state delinquent taxes, penalties, or interest. The commissioner may not notify the licensing authority unless the applicant taxpayer owes \$500 or more in delinquent taxes or has not filed returns. If the applicant taxpayer does not owe delinquent taxes but has not filed returns, the commissioner may not notify the licensing authority unless the taxpayer has been given 90 days' written notice to file the returns or show that the returns are not required to be filed.

5. The Respondent has failed to file returns for 1996 and 1997, and she has received more than 90 days' written notice to file the returns or risk revocation of her teaching license.

6. The Department has met the statutory requirements for notifying the Minnesota Board of Teaching that Respondent's teaching license should be revoked.

Based upon the foregoing Conclusions of Law, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that the Commissioner of Revenue issue a Notice of License Revocation to the Minnesota Board of Teaching indicating that the Board of Teaching must revoke the Respondent's teaching license.

Dated this 16th day of June, 2003.

/s/ Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge

Reported: Tape Recorded, default.

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Commissioner is required to serve the final decision upon each party and the Administrative Law Judge by first-class mail. If the Commissioner fails to issue a final decision within 90 days of the close of the record under Minn. Stat. § 14.62, subd. 2a, this report becomes a final decision. In order to comply with Minn. Stat. § 14.62, subd. 2a, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed.

^[1] Ex. 2.

^[2] Ex. 3.